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Clerk of the Superior Court

JUN 30 2006

By: K SANDOVAL, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Coordination Proceedings Special Title
(Rule 1550(b))

NATURAL GAS ANTI-TRUST CASES I,
II, III, & IV

This Document Relates To:
The Price Indexing Cases

Case No. JCCP NOS. 4221, 4224, 4226, and
4228

**[PROPOSED] ORDER REGARDING
PASS-ON DISCOVERY**

Dept.: 71
Honorable Ronald S. Prager
Coordination Trial Judge

ORDER

On June 12, 2006, the Court heard argument on the defendants' request for an order confirming that plaintiffs may not object to discovery on the ground that California law does not allow defendants to assert a "pass-on" defense. The Court has considered the parties' letter briefs filed on this issue, as well as the arguments of counsel at the June 12, 2006 hearing.

The Court finds that the pass-on defense is not precluded as a matter of California law, at this early stage of the proceedings. Rather, whether or not defendants will be permitted to assert a pass-on defense is an issue that will have to be resolved by this Court at some later date. The

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[PROPOSED] ORDER REGARDING PASS-ON DISCOVERY

1 Court finds that a full factual record will aid the Court in evaluating whether defendants may
2 assert a pass-on defense.

3 Accordingly, IT IS HEREBY ORDERED as follows:

4 1. Defendants shall be entitled to pursue pass-on discovery, including without
5 ~~production of documents and discovery requests for information related to revenues received by the~~
6
7 discovery on the grounds that these discovery requests are irrelevant or not reasonably likely to
8
9 lead to the discovery of admissible evidence.

10 2. Independent Plaintiffs retain the right, however, to object to the extent that the
11 discovery requests are unduly burdensome. Independent Plaintiffs may assert any applicable
12 privilege as a bar to discovery. If such an objection is asserted, the parties shall meet and confer
13 in an effort to resolve any dispute by agreement. If no agreement can be reached, either side may
14 seek appropriate relief from the Court.

15 3. The Court has tentatively scheduled a follow-up status conference on the pass-on
16 discovery issues for July 10, 2006 at 10 a.m. Not later than the close of business on July 6, 2006,
17 counsel shall notify the Court as to whether the July 10 hearing will be necessary.

18
19 IT IS SO ORDERED.

20 DATED: June 30, 2006



Hon. Ronald S. Prager
Coordination Trial Judge

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